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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,973	08/28/2006	Ali Laayoun	129219	4175
25944 7590 07/22/2009 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
EXAMINER				
LOEWY, SUN JAE Y				
ART UNIT		PAPER NUMBER		
1626				
MAIL DATE		DELIVERY MODE		
07/22/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/590,973

**Applicant(s)**

LAAYOUN ET AL.

**Examiner**

SUN JAE Y. LOEWE

**Art Unit**

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-66 is/are pending in the application.  
4a) Of the above claim(s) 33-66 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 26-32 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/CIS)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

### DETAILED ACTION

1. Claims 26-66 are pending in the instant application. Claims 33-66 remain withdrawn.

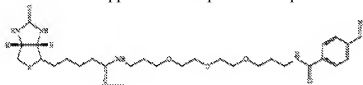
#### *Response to Amendment*

2. The amendments to the claims and specification filed on April 17, 2009 have been fully considered. The objection to the specification is withdrawn. The 35 USC 112 2<sup>nd</sup> paragraph, 35 USC 102 and double patenting rejections are maintained.

3. Below are responses to Applicant's remarks:

“ By this Amendment, claim 26 is amended to recite, “-Z- represents -NH-, -NHCO-, or -CONH-” and to delete from this grouping “-O-.” As such, claim 26 does not read upon the non-elected species asserted by the Office Action that is taught by Bourget. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested. ”

Applicant's response has been noted, however, it is not found to be persuasive. The amended claim appear to encompass the compound of



wherein the “Z” portion of the molecule is underlined for clarity.

“ Because the claims have not been finally rejected, Applicants respectfully submit that such an objection is premature and should be held in abeyance until prosecution on the merits is closed. Accordingly, reconsideration and withdrawal of the objection are respectfully requested ”

Applicant's response is noted. It is clarified that cancellation of the non-elected subject matter is not required as Applicant is entitled to rejoinder of non-elected species upon allowability of the generic claims.

“ A definition of “multimeric structure” is found in the specification at page 12,

The term "multimeric structure" is intended to mean a polymer formed of repeat units of chemical or biological synthons. An example is mentioned in example 34.2 of the description of patent application WO-A-02/090319. Those skilled in the art are requested to refer to this document should they find the information developed hereinafter insufficient for their complete understanding of this subject. Many variants of such structures which can be used in the present invention are known, such as, for example:

- linear polymers (EP-A-0.561.722, EP-A-0.669.991),
- branched polymers (WO-A-01/92361),
- particles (EP-A-G 827 552),
- dendrimers (US-A-4,507,466; US-A-4,568,737; US-A-6,083,708),
- polynucleotides, and
- polypeptides.

Should it prove necessary, those skilled in the art can also refer to these documents for a complete understanding of the subject.

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As such, Applicants respectfully submit that one skilled in the art would be able to ascertain the meaning of these terms in light of the sections of the specification cited above, and 35 U.S.C. §112, second paragraph, is satisfied. See MPEP §2173.02.

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First, Applicants respectfully submit that the Office Action fails to specify which terms it considers indefinite. It is unclear whether the Office Action refers to "linker arm" or "linear chain" or some other portion of the above-quoted claim limitation.

Second, just because a term or phrase is not expressly defined in the disclosure does not necessarily render a term indefinite. As provided by MPEP §2173.02, the essential inquiry is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be

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"linker arm" is not expressly defined in the specification, the claim itself at least partially defines "L" as "comprising a linear chain of at least two covalent bonds." Although this may encompass many structures, there is limiting structure provided that defines the metes bounds of the claim. Also, breadth does not equate to indefiniteness.

..

Applicant's responses are noted, however, they are not found to be persuasive. The art recognized definition of polymer is a natural or synthetic compound made up of repeat units of monomers. No structural limitations are provided by either the art recognized definition or the instant specification. Similarly, the other terms included in the claims do not provide a structural or functional limitation and thus do not define the metes and bounds of the claims.

#### ***Conclusion***

**4. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUN JAE Y. LOEWE whose telephone number is (571)272-9074. The examiner can normally be reached on M-F 7:30-5:00 Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sun Jae Y. Loewe/  
7-17-2009

/Kamal A Saeed/  
Primary Examiner, Art Unit 1626